

It seems to me that leaves us in an untenable position. Because either we believe that what an individual does to express himself or herself is not a matter for the law, or we say we value this one symbol but we devalue all the others. I think we are better off as a society letting people express themselves as freely as possible and having the rest of us argue against it. The alternative is to set the principle that if the Government does not outlaw something, it is somehow condoning it. And if it does not outlaw the desecration of a particular symbol, it somehow devalues that symbol.

I think that will do more damage because it will leave more valuable symbols in fact devalued by being excluded from this new form of protection. So I hope the amendment is defeated.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BACA).

Mr. BACA. Mr. Speaker, I stand in support of H.R. 36, to give Congress the power to outlaw flag burning.

As a veteran, this issue is very important and close to my heart. As we look at it not only as a veteran but as we look at what has been said right now, people have talked about the constitutional amendment dealing with expression, freedom of expression, the right to liberty. We also have the right to interpret, when we look at the Constitution, to examine what our forefathers, who wrote the legislation sometime ago, actually meant. And sometimes there is time for a change, and this is a time for a change that we have to realize.

As a symbol, many of our veterans have fought for our country. Because of the sacrifices they have made, we enjoy peace and freedom today. Because of that symbol many individuals have died. When we look at someone who has been buried and the flag is turned over to the family, it is that symbol that is turned over. When I turn around and look at the flag behind me, it is that symbol I salute. When I attend a service, it is that symbol I salute. When I see the changing of the colors, it is that symbol, it is what America is. It is what this country was founded on.

To everyone who has fought for us, from the beginning to now, in each and every one of our wars, it is a form of expression. It is one we should have. We should never ever desecrate the flag.

When we look at many of the veterans that are willing to sacrifice and stand up and fight for us, what have they done? Are we going to say that they have gone out and fought in every war and that we do not realize there is a symbol? When someone fell with that flag and someone else picked it up and they charged, why did they do that? Because it is a symbol of freedom, freedom of expression for our area.

We must stand up and protect the flag. And let me tell my colleagues, anyone who desecrates the flag, shame on us, shame on them. It is time for a

change. We have to make the change to protect what America was built on; those freedoms that are very important to us. That flag is part of that freedom and that symbol and represents every American, every individual in this country.

Mr. CONYERS. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from New York (Mr. NADLER), the ranking member on the Subcommittee on the Constitution of the Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, I rise in opposition to this misguided constitutional amendment and urge my colleagues to vote against it.

We are faced today with a choice that will be, for many Members of this body, a difficult one. The choice, put simply, is between a symbol, a revered symbol, and the fundamental values it represents. The flag of the United States is a symbol. It is a symbol that has the power to move people deeply. When we see the picture of the flag being raised by the Marines over Mt. Suribachi or when we see it draped over a casket or when we see it being carried in the streets as a symbol of the fight for social justice, as it was by Dr. King and so many other courageous individuals over the years who fought to ensure that America would one day live up to its promise, it is hard not to be moved.

Indeed, Mr. Speaker, as we stand here today debating what would be the very first amendment to the Bill of Rights, I feel humbled to look at the flag hanging behind you in this Chamber and know that a very heavy responsibility weighs on every Member of this House.

We have heard and will hear many moving arguments about the sacrifices made for the flag, of the people who died for the flag, the soldiers, of the importance of the flag to so many Americans. But the real significance of the flag is those important values, the fundamental freedoms, and the way of life it represents. That is why so many have sacrificed so much. Not for the peace of colored cloth, but for those values. And we dishonor their sacrifice, we ensure that those sacrifices were made in vain if we now start down the road to undermine the freedoms the flag represents, allegedly to protect the flag.

Let us not revere the symbol over what it represents. Let us not render our flag a hollow symbol. It has been said that the sin of idolatry is the sin of elevating the symbol over the substance. The substance we are talking about is liberty and freedom of expression. It is that that we must protect, and it is that which this amendment jeopardizes.

Mr. Speaker, veterans, General Colin Powell, religious leaders, and many other Americans understand how important our freedom of expression really is, even if that expression is sometimes politically unpopular, even if it may offend people, even if it makes people angry, even if it costs votes. If

those who came before us were willing to place their lives, their fortunes, and their sacred honor for those freedoms, I think we can risk some votes to secure their continuance.

We have debated this amendment many times. We all know the arguments. It might be easy to trivialize the question we have debated so many times, but this is serious business because we are talking about amending the first amendment, the queen of the amendments that have protected our freedoms since the beginning of our Nation.

If any Member has any doubts about whether this amendment is about protecting the flag or is really about constraining freedom of expression, they should ask themselves, what is the difference between burning an old tattered flag, which U.S. law and the American Legion tell us is the appropriate, respectful way to dispose of a flag, and burning it at a protest rally? There is only one difference, and that is the opinion, the political opinion, the message being conveyed, and we are criminalizing the message.

We have all seen, I would assume everyone in this Chamber has watched movies over the years, and we have seen movies in which actors play enemy soldiers, Nazi soldiers, Chinese Communist soldiers in Korea; and during that movie they desecrate the American flag, they tear it to bits or trample upon it or spit upon it or burn it. No one suggests we ought to arrest the actors. No one suggests the actors have committed a crime because they are playing a role. The only crime this amendment seeks to create is not for those actors to destroy the flag in some future movie, it is for someone to burn the flag or otherwise disrespect it in the course of a political protest.

That is why the Supreme Court, quite rightly, said we cannot make that illegal because it is the core political speech that we would be making illegal. It is not the flag at issue; it is the opinion being expressed.

Do my colleagues know current Federal law makes it a crime to use the flag in advertising, including political advertising? That is current law because Congress thought it was disrespectful to use the flag in advertisements. If this amendment passes, that law will be enforceable. Now it is not because it is unconstitutional. Yet I would venture to say that most Members of this Congress have violated that law by using the flag in political ads. Is it the intent of the sponsors to crack down on that form of flag desecration?

Mr. Speaker, our freedoms are more important than any one individual who wants to make a point by burning a flag. Our country has survived those few individuals who want to burn the flag.

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Our country will rise above it in the future.

The real damage to the flag is that too many people may be willing to